



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 5094-99
21 October 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 5 January 1966 for six years as a CS3 (E-4). At the time of your reenlistment, you had completed nearly five years of active service and were authorized to wear the Vietnam Service Medal for service on board the USS PREBLE.

The record reflects that you served without incident until 10 June 1966 when you received a nonjudicial punishment (NJP) for a 11 day period of unauthorized absence (UA). Punishment consisted of a suspended reduction in rate to CSSN (E-3) and 60 days of restriction and extra duty.

On 26 April 1967 you were convicted by special court-martial of two periods of UA totalling about 119 days, from 11 October to 7 November 1966 and 16 December 1966 to 20 March 1967. You were sentenced to confinement at hard labor for six months, forfeitures of \$55 per month for six months, reduction in rate to CSSR (E-1), and a bad conduct discharge. The convening authority

approved the sentence but reduced the forfeitures of pay to \$30 per month for six months. On 28 June 1967, the supervisory authority approved the sentence but those portions of the sentence in excess of confinement at hard labor for three months, forfeitures of \$30 per month for three months, reduction in rate to CSSR, and a bad conduct discharge were suspended for a period of six months.

On 10 August 1967 you were reported UA again. The Navy Board of Review affirmed the findings and the sentence on 30 August 1967 and you surrendered to military authorities on 6 September 1967.

On 6 October 1967, the convening authority ordered the execution of those portions of the previously suspended confinement and forfeitures, and the bad conduct discharge. On 20 November 1967, the unexecuted portion of the sentence to confinement and forfeitures were remitted and you were separated with a bad conduct discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your limited education, two prior periods of honorable service, Vietnam service, regret for the actions which led to your discharge, and the fact that it has been nearly 32 years since your were discharged. The Board noted your contention that you became an alcoholic and that you have been sober for 41 months. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of an NJP and the conviction by special court-martial of two periods of UA totalling nearly four months. Your lost time due to UA and military confinement totalled 363 days. The Board noted the aggravating factor that you were given an opportunity to earn a discharge under honorable conditions when the bad conduct discharge was suspended for a probationary period of six months, but you violated your probation by going UA again for another 26 days. The conviction and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your third period of service of 22 months. The Board concluded that the discharge was proper and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request. It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director